

Applic. No.: 09/655,091

Amdt. Dated November 30, 2005

Reply to Office action of September 6, 2005

REMARKS/ARGUMENTS

Reconsideration of the application is requested.

Claims 1-14 remain in the application. Claims 1-2 have been amended. Claims 5-6 have been previously cancelled. Claims 9-14 have been withdrawn.

In item 4 on pages 2-3 of the above-identified Office action, the Examiner has stated that the term "close" in claims 1 and 2 is a relative term, which renders the claim indefinite.

The term "close" has been deleted and the language has been modified to clearly recite that the top end (24) of the drain pipe (22) is disposed not only at a level above the condenser (16) but also laterally in the vicinity of the condenser (16).

It is accordingly believed that the claims meet the requirements of 35 U.S.C. § 112, second paragraph. Should the Examiner find any further objectionable items, counsel would appreciate a telephone call during which the matter may be resolved. The above-noted changes to the claims are provided solely for cosmetic and/or clarificatory reasons. The changes are neither provided for overcoming the prior art nor do they

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narrow the scope of the claims for any reason related to the statutory requirements for a patent.

In item 2 on page 3 of the above-mentioned Office action, claims 1-8 have been rejected as being unpatentable over Gaouditz et al. (US 4,022,655) and further in view of Billig et al. (US 5,282,230) under 35 U.S.C. § 103(a).

As will be explained below, it is believed that the claims were patentable over the cited art in their original form and the claims have, therefore, not been amended to overcome the references. However, the language of claims 1 and 2 has been modified in an effort to even more clearly define the invention of the instant application. The support may be found in the figure and the corresponding description thereof.

Before discussing the prior art in detail, it is believed that a brief review of the invention as claimed, would be helpful.

Claims 1 and 2 call for, inter alia:

said drain pipe having an upper end disposed at a level above said condenser and laterally in a vicinity of said condenser and a bottom end immersed into said cooling liquid.

The Examiner has stated that the invention of the instant application is disclosed by a combination of Gaouditz et al.

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and Billig et al. More specifically, the Examiner has stated that it would have been prima facie obvious to one skilled in the art to modify the containment disclosed by Gaouditz et al. by placing the Billig et al. condenser nearby and slightly below the duct opening 16 of Gaouditz et al. However, it is not clear why a person skilled in the art should obtain any motivation from the disclosure of Gaouditz et al. to technically correlate a building condenser with the pipes disclosed therein at all. The concept of the invention of the instant application of using the drain pipe to remove the noncondensable gases concentrated in the surrounding of the building condenser and thus forming a functional relation between the building condenser on one hand and the drain pipe on the other side, cannot be gathered from Gaouditz et al. or Billig et al. from the beginning.

It is not at all evident, without hindsight consideration, namely by analyzing Gaouditz et al. and Billig et al. without falling back on the knowledge of the invention of the instant application, through what kind of motivation should a person skilled in the art place a building condenser in any relation under consideration of the pipe systems or similar. Neither Gaouditz et al. nor Billig et al. provide any suggestion that functionally or technically there could be an interrelation between the pipe elements and the building condenser.

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It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claims 1 and 2. Claims 1 and 2 are, therefore, believed to be patentable over the art and since all of the dependent claims are ultimately dependent on claim 1, they are believed to be patentable as well.

In view of the foregoing, reconsideration and allowance of claims 1-4 and 7-8 are solicited. Reconsideration and allowance of withdrawn claims 9-10 are requested upon the allowance of a generic claim. Claims 1 and 2 are believed to be generic.

In the event the Examiner should still find any of the claims to be unpatentable, counsel would appreciate a telephone call so that, if possible, patentable language can be worked out.

If an extension of time for this paper is required, petition for extension is herewith made. Please charge any fees which might be due with respect to 37 CFR Sections 1.16 and 1.17 to

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the Deposit Account of Lerner and Greenberg, P.A., No. 12-
1099.

Respectfully submitted,


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